

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

| | |
|----------------------------------|---|
| THOMAS M. KELLEY, |) |
|) | |
|) | |
| Plaintiff, |) |
|) | |
|) | |
| v. |) |
|) | |
| TOWN OF PLYMOUTH, et al., |) |
|) | |
| Defendants. |) |
|) | |

C.A. NO. 05-10596-NMG

MOTION TO ENLARGE TIME TO OBJECT TO A THIRD PARTY SUBPOENA

Pursuant to Fed.R.Civ.P. 6(b), the Office of the Inspector General (“IG”) respectfully moves to enlarge the time to respond to a subpoena commanding its Keeper of the Records (1) to appear and testify on August 16, 2006; and (2) to produce and permit inspection and copying of certain documents. Under Fed.R.Civ.P. 45(c)(2)(B), the IG is allowed 14 days, or until August 11, 2006, to serve written objections. Under Fed.R.Civ.P. 45(c)(3)(A), the IG is allowed to move in a timely manner to quash or modify the subpoena. The IG asks that this Court allow it until August 29, 2006, to serve its written objections and to move to quash or modify this subpoena. Joseph R. Gallitano, counsel to plaintiff Thomas Kelly, has provided his assent to this motion. In support of this motion, the IG states the following:

1. Because the IG is not a party to the above-captioned matter, it has not monitored the course of the proceedings.
2. On July 28, 2006, the IG received the following:
 - a. a subpoena directed to the Keeper of Records, which commanded the Keeper of the Records to appear and testify on August 16, 2006, at 11:00 a.m., and to produce and permit inspection and copying of certain documents referenced in the attached Schedule A (“Keeper of the Records

and Document Subpoena"); and

- b. a subpoena directed to Daniel O'Neil, an Inspector for the IG, commanding him to appear and testify on September 6, 2006, at 1:30.
- 3. On August 9, 2006, the IG received another subpoena originally served upon Edward Quinn, a former Chief Inspector for the IG, commanding him to appear and testify on September 6, 2006, at 10:30.
- 4. The IG forwarded these materials to the Office of the Attorney General on or about August 9, 2006. This matter was assigned to Christine A. Baily, Assistant Attorney General, that same day, two days before written objections were due on August 11, 2006 pursuant to Fed.R.Civ.P. 45(c)(2)(B).
- 5. Under Fed.R.Civ.P. 45(c)(2)(B) and Local Rule 34.1(c), a person is allowed 14 days to serve written objections to a subpoena that commands a person to produce and permit inspection and copying of certain documents. Thus, the IG has until August 11, 2006, to serve its written objections in response to the Keeper of the Records and Document Subpoena.
- 6. Pursuant to Fed.R.Civ.P. 45(c)(3)(A), a person is allowed to move in a timely manner to quash or modify a subpoena.
- 7. AAG Baily needs additional time to familiarize herself with the above-referenced matter, consult with the IG, and formulate a proper response to the Keeper of the Records and Document Subpoena. Additional time is also required to consult with Joseph R. Gallitano, counsel to Thomas M. Kelly, regarding the above-referenced subpoenas as required by Local Rule 37.1.
- 8. On August 10, 2006, AAG Baily telephoned and faxed Attorney Gallitano, who issued the above-referenced subpoenas, seeking his assent to this motion. On August 10, 2006, Attorney Gallitano provided his assent to this motion.
- 9. This is the first extension requested by the IG.

For the foregoing reasons and for those articulated in the attached affidavit, the IG respectfully requests that the Court allow this motion to extend time to August 29, 2006, to respond to the Keeper of the Records and Document Subpoena as set forth above.

Respectfully submitted,

OFFICE OF THE
INSPECTOR GENERAL,

By its counsel,

THOMAS F. REILLY
ATTORNEY GENERAL

/s/ Christine A. Baily
Christine A. Baily, BBO #643759
Assistant Attorney General
Government Bureau
One Ashburton Place, Room 2019
Boston, Massachusetts 02108
(617) 727-2200, extension 2617

Date: August 10 , 2006

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| |) | |
| Defendants. |) | |
| |) | |

AFFIDAVIT OF CHRISTINE BAILY

The undersigned hereby deposes and says:

1. I am an Assistant Attorney General and represent the Office of the Inspector General (“IG”) in the above-captioned matter.
2. Because the IG is not a party to the above-captioned matter, it has not monitored the course of the proceedings.
3. On July 28, 2006, the IG received the following:
 - a. a subpoena directed to the Keeper of Records, which commanded the Keeper of the Records to appear and testify on August 16, 2006, at 11:00 a.m., and to produce and permit inspection and copying of certain documents referenced in the attached Schedule A (“Keeper of the Records and Document Subpoena”); and
 - b. a subpoena directed to Daniel O’Neil, an Inspector for the IG, commanding him to appear and testify on September 6, 2006, at 1:30.
4. On August 9, 2006, the IG received another subpoena originally served upon Edward Quinn, a former Chief Inspector for the IG, commanding him to appear and testify on September 6, 2006, at 10:30.
5. The IG forwarded these materials to the Office of the Attorney General on or about August 9, 2006. This matter was assigned to me that same day, two days before written objections were due on August 11, 2006 pursuant to Fed.R.Civ.P. 45(c)(2)(B).

6. Under Fed.R.Civ.P. 45(c)(2)(B) and Local Rule 34.1(c), a person is allowed 14 days to serve written objections to a subpoena that commands a person to produce and permit inspection and copying of certain documents. Thus, the IG has until August 11, 2006, to serve its written objections in response to the Keeper of the Records and Document Subpoena.
7. Pursuant to Fed.R.Civ.P. 45(c)(3)(A), a person is allowed to move in a timely manner to quash or modify a subpoena.
8. I need additional time to familiarize myself with the above-referenced matter, consult with the IG, and formulate a proper response to the Keeper of the Records and Document Subpoena. Additional time is also required to consult with Joseph R. Gallitano, counsel to Tomas M. Kelly, regarding the above-referenced subpoenas as required by Local Rule 37.1.
9. On August 10, 2006, I telephoned and faxed Attorney Gallitano, who issued the above-referenced subpoenas, seeking his assent to this motion. On August 10, 2006, Attorney Gallitano provided his assent to this motion.
10. This is the first extension requested by the IG.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS THE 10th DAY
OF AUGUST, 2006.

/s/ Christine A. Baily
Christine Baily, BBO #643759
(617) 727-2200, ext. 3381